

CO₂
carbon dioxide gas liberated from said coffee and to minimize the degassification of said coffee prior to the sealing of said coffee within said containers.

REMARKS

By the subject Amendment, Applicants have amended Claims 2 and 18. Claims 2 to 12 and 14 to 20 are presently pending. Claims 2, 16 and 18 are presented in independent form.

In the office action, the Examiner has rejected claims 2 through 5 and 18 through 20 as being obvious in light of Goglio. In arriving at that position, the Examiner has drawn two conclusions that are neither supported nor taught by Goglio. First, the Examiner has concluded that it would have been obvious to one of ordinary skill in the art to directly grind the coffee of Goglio into a package or container to minimize the loss of volatiles in the product. Secondly, to support the position set forth in the office action, the Examiner has also concluded that it would have been obvious to provide for a design having a short distance between the grinding and packaging of the product. That conclusion has been found in spite of the admission by the Examiner that Goglio does not teach maintaining a short distance between the grinding and packaging stages. With respect, Applicant submits that such an analysis employs hindsight and disregards the actual disclosure of Goglio, and the direction in which it teaches, i.e., away from the claimed invention.

In the very first paragraph of the Goglio patent (column 1, lines 6 through 9), it is clearly stated that the invention refers to a process and related installation for packaging coffee in hermetic semi-rigid or flexible containers, by means of the use of gas and without carrying out any vacuum creating operation. Later, at column 1, lines 49 through 53, Goglio indicates that this aim is achieved through placing the gas of the product itself into the container during the container's forming phase. At column 2, lines 34 through 37, Goglio indicates that the gas that is used to purge the containers is

drawn from the grinding plant of the coffee itself. Goglio argues that doing so avoids the need to use subsequent purification systems which are usually required for eliminating gases produced by the grinding plant.

The very fact that Goglio extracts gas from the grinding plant and then transports that gas to the package forming plant for injection into the packages and containers, together with the indication that without extracting the gas in such a manner there would be a need to purify or eliminate gas produced by the grinding plant, in and of itself unequivocally demonstrates that the coffee in Goglio is allowed to degas after grinding. This undisputable fact is also shown schematically in Figure 1. In Figure 1 a suction ventilator (9) is identified as drawing gas from the grinding plant and directing it to both the container manufacturing plant and the packaging plant. Once again, at column 2, lines 34 through 37, Goglio specified that the gas that is drawn from the grinding plant is that of the coffee itself.

When one considers the explicit language used by Goglio in his description, and upon an examination of Figure 1, it cannot be said that Goglio teaches or even contemplates minimizing the loss of carbon dioxide gas and minimizing the degassification of the coffee after grinding. Goglio teaches exactly the opposite. In fact, Goglio requires degassification of the coffee following grinding in order for there to be a source of inert gas that can be injected into the containers in the package forming or manufacturing plant 8. While Goglio contemplates the use of an external gas source 15, that source is only for purposes of compensating for deficiencies in the system and during the start up phase (column 3, lines 7 - 12). The source of gas for purging and sealing within the packages in container manufacturing plant 8 is gas that has been liberated, collected, and extracted from the coffee after the grinding stage. Without degassification following grinding, the Goglio process

simply cannot operate.

The Examiner has also indicated that the fact that Goglio does not show a work place design wherein coffee is ground directly into a container filler apparatus does not constitute non-obviousness due to the high cost of remodeling food processing operations. With respect, Applicant submits that such a position is based upon the Examiner's assumption that the cost of retrofitting a processing plant is relevant to the issue of obviousness in this instance. It should be kept in mind that Goglio merely discloses a process for packaging coffee in a particular manner. Goglio does not suggest that his process is designed to be retrofit into existing processing plants, nor does he suggest that his process requires the construction of a new plant. Dismissing the differences between Applicant's process and that described by Goglio on the basis of the cost of remodeling food process operations is, in the applicant's respectful submission, an improper importation and application of facts that are neither disclosed nor contemplated by Goglio. The cost of implementing the process is irrelevant to whether the claimed process would have been obvious to one of ordinary skill in the art at the time. Since Goglio merely describes a process for packaging coffee, and not a process to remodel or retrofit existing coffee processing plants, if he had at all even contemplated Applicant's invention, it was open for him to mention such a process in his description or to illustrate the process in his drawings. In neither case was that done. The process described by Goglio is completely consistent with that shown in his drawings, and at the same time completely at odds with the process claimed by Applicant. In order to feed his container manufacturing plant with a source of inert gas, Goglio, out of necessity, requires a grinding plant that is both separate and distinct from the container manufacturing plant and the packaging plant. As mentioned above, without having a separate grinding stage Goglio has no source of inert gas for his container packaging plant.

Once again, out of necessity Goglio requires the use of hoppers to act as overflow controls, feed ducts to transfer ground coffee from the grinding to the packaging plant, and further volumetric control hoppers and devices in the grinding and packaging plants. All of those physical structures are clearly shown in Figure 1 of the Goglio patent. Quite aside from the fact that Goglio specifically allows for and requires degassification during grinding, further degassification occurs as the coffee sits and travels through the various hoppers and duct systems that are in place between the grinding and packaging plant. There will therefore be a loss of aromatics and carbon dioxide as the coffee is allowed to undergo further degassification. In addition, the hoppers and duct systems will also result in a stratification of the ground coffee and a separation of the fines from the course particles.

While Goglio and the claimed invention are similar to the extent that they both concern methods for processing and packaging coffee, the similarities end there. Goglio describes a container forming plant that relies upon and extracts gas liberated from the coffee after grinding. Goglio simply does not grind roasted coffee directly into a container filling apparatus, nor does he deliver ground coffee directly in the purged containers with minimal delay in order to minimize the loss of carbon dioxide gas liberated and to minimize the degassification of the coffee prior to sealing the containers. Goglio teaches in a direction that is exactly opposite to that of Applicant's invention. Accordingly, Applicant respectfully submits that when Goglio is properly considered and construed, it cannot be said that the claimed invention would have been obvious to one of ordinary skill in the art. Doing so not only requires the employment of hindsight analysis but requires the assumption of matters that are simply not present in the disclosure of Goglio.

Finally, the Examiner has also recited the Hibi reference and combined Hibi with Goglio in order to find Claims 7 through 12 and 14 through 17 obvious. In Applicant's respectful submission

the Hibi disclosure adds nothing of substance over and above that of Goglio. Accordingly, on the basis of the distinction between the claimed invention and the disclosure of Goglio discussed above, Applicant submits that the present claims are patentable over Goglio and Hibi when considered individually or in combination.

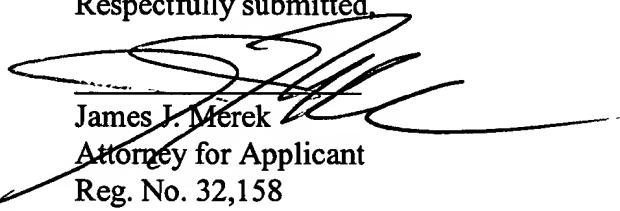
Accordingly, Applicant respectfully submits that all pending claims are in condition for allowance. Applicant requests that the subject patent application be passed to issuance without delay.

Attached hereto is a document entitled VERSION WITH MARKINGS TO SHOW CHANGES MADE identifying the amendments made to the claims.

It is believed that no fees are presently due. However, should this determination be incorrect, the Patent Office officials are hereby authorized to charge Deposit Account No. 13-2759 for any and all fees that may be owing. The undersigned is to be notified of any and all charges to the aforementioned deposit account.

Date: 4/30/03

Respectfully submitted,


James J. Merek
Attorney for Applicant
Reg. No. 32,158

MEREK, BLACKMON & VOORHEES
673 South Washington Street
Alexandria, Virginia 22314
(703) 684-5633

VERSION WITH MARKINGS TO SHOW CHANGES MADE

The changes made by the subject Amendment are indicated below:

2. (Twice Amended) A method of processing roasted coffee to improve the retention of carbon dioxide and aromatics liberated from the roasted coffee, the method comprising the steps of:
- (i) preparing one or more containers for receiving coffee therein;
 - (ii) purging said containers of contained air through flushing said containers with an inert gas;
 - (iii) transporting and delivering roasted coffee to a grinding circuit;
 - (iv) grinding said roasted coffee directly into a container filling apparatus;
 - (v) with said container filling apparatus, delivering said ground coffee directly into said purged containers; and,
 - (vi) sealing said containers to maximize the retention of carbon dioxide and aromatics liberated from said roasted coffee and to minimize contact of said ground roasted coffee with the air, wherein said steps of grinding said roasted coffee directly into a container filling apparatus and delivering said ground coffee directly into said purged containers are completed with minimal delay between successive steps to minimize the loss of carbon dioxide gas liberated from said coffee and to minimize the degassification of said coffee prior to the sealing of said coffee within said containers.

18. (Once Amended) A method of processing roasted coffee to minimize the loss of carbon dioxide gas and aromatics liberated from the coffee, the method comprising the steps of preparing one or more containers for receiving roasted coffee therein and maintaining said purged containers in a generally upright position, transporting and delivering roasted coffee to a grinding circuit located within an enclosure having an oxygen depleted atmosphere, grinding said coffee directly into a container filling apparatus, with said container filling apparatus delivering said ground coffee directly into said purged containers, sealing said containers to maximize the retention of carbon dioxide and aromatics liberated from said roasted coffee and to minimize the contact of said roasted coffee with the air, said steps of said method completed with minimal delay between successive steps to minimize the loss of carbon dioxide gas liberated from said coffee and to minimize the degassification of said coffee prior to the sealing of said coffee within said containers.